

### REMARKS

Claims 1, 9-12, and 19 are amended, no claims are canceled, and no claims are added; as a result, claims 1-24 are now pending in this application.

No new matter has been added through the amendments to claims 1, 9-12, and 19. Support for the amendments to claims 1, 9, and 19 is found throughout the specification, including but not limited to the specification at page 9, line 27 through page 10, line 8, and in FIG. 8. Claim 9 and claims 10-12 were also amended merely to replace the phrase "signal bearing media" with the phrase "computer memory." Support for this amendment is found throughout the specification, including but not limited to the specification at page 11, line 26 through page 12, line 18, and in Fig. 14.

### In The Drawings

Formal drawings including Figs. 1-14 on Sheets 1-10 are included with this response. No amendments have been made to Figs. 1-14. Each of sheets 1-10 includes the phrase "REPLACEMENT SHEET."

No new matter has been added through the submission of these formal drawings. Applicants respectfully request an indication in the next official communicant from the Patent Office in the application that these formal drawings are acknowledged and accepted.

### Allowable Subject Matter

Claims 13-18 were allowed. Applicants respectfully acknowledge the allowance of claims 13-18.

### §101 Rejection of the Claims

Claims 9-12 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse the rejection of claims 9-12.

Independent claim 9, as now amended, includes:

**"A computer memory encoded with machine-readable instructions, wherein the instructions when read and executed comprise: . . . "** (Emphasis added).

According to the MPEP:<sup>1</sup>

When a **computer program** is recited in conjunction with a physical structure, such as a **computer memory**, USPTO personnel should treat the claim as a product claim. (Emphasis added).

Thus, independent claim 9, and claims 10-12 that depend from independent claim 9, at least as now amended include statutory subject matter under 35 U.S.C. § 101. Applicants respectfully request reconsideration and withdrawal of the rejection, and allowance of claims 9-12.

§102 Rejection of the Claims

Claims 1-12 were rejected under 35 U.S.C. § 102(b) for anticipation by Bhatia et al. Applicants respectfully traverse the rejection of claims 1-12.

Claims 1-12 are not anticipated by Bhatia et al. because Bhatia et al. fails to disclose all of the subject matter of claims 1-12 as arranged in these claims, and so Bhatia et al. fails to disclose the identical invention of claims 1-12.<sup>2</sup> By way of illustration, independent claim 1 as now amended includes:

an information processing unit coupled to the primary information storage unit and to the secondary information storage unit, the information processing unit to receive information from the secondary information storage unit, to process the information to form a transform of the information, and to store the transform in the primary information storage unit, **wherein the processing includes,**

**forming a transform of an N point signal where N is an integer by a first method if the logarithm of N to the base four is an integer and N is less than or equal to a particular value,**

**forming the transform of the N point signal by a second method if the logarithm of N to the base four is an integer and N is greater than the particular value,**

**forming the transform of the N point signal by a third method if the logarithm of N to the base four is not an integer, but the logarithm of N to the base two is an integer.**

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<sup>1</sup> See Manual of Patent Examining Procedure, Eight Edition, August 2001, Latest Revision August 2006 at MPEP § 2106.01 I.

<sup>2</sup> Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *W. L. Gore & Assocs. v. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, A[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*@ *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). The identical invention must be shown in as complete detail as is contained in the ... claim.@ *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP '2131.

(Emphasis added).

There is no disclosure in Bhatia et al. of all the subject matter of independent claim 1, including the processing as required by the subject matter of independent claim 1. Therefore, independent claim 1 is not anticipated by Bhatia et al.

For reasons analogous to those stated above with respect to independent claim 1, independent claim 9, at least as now amended, includes subject matter not disclosed by Bhatia et al. Since Bhatia et al. fails to disclose all of the subject matter of independent 9, as arranged in independent claim 9, independent claim 9 is not anticipated by Bhatia et al.

Claims 2-8 and 10-12 depend from one of independent claims 1 and 9, and so include all of the subject matter included in the independent claim from which they depend, and more. For at least the reasons stated above with respect to independent claims 1 and 9, claims 2-8 and 10-12 are not anticipated by Bhatia et al.

Applicants respectfully request reconsideration and withdrawal of the rejection, and allowance of claims 1-12.

### §103 Rejection of the Claims

#### Claims 19-20, and 23-24.

Claims 19, 20, 23, and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhatia et al. and McPherson et al. Applicants respectfully traverse the rejection of claims 19-20 and 23-24.

Claims 19-20 and 23-24 are not obvious in view of the proposed combination of Bhatia et al. and McPherson et al.<sup>3</sup> because the proposed combination of Bhatia et al. and McPherson et al. fails to disclose or suggest all of the subject matter included in claims 19-20 and 23-24.<sup>4</sup> By way of illustration, independent claim 19, as now amended, includes:

an information processing unit coupled to the primary information storage unit and to the secondary information storage unit, the information processing unit to receive the signal from the secondary information storage unit, to process the signal to form a Fourier transform of the signal, and to store the Fourier transform

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<sup>3</sup> Applicants to not admit or agree that any combination of Bhatia et al. and McPherson et al. is possible.

<sup>4</sup> Further, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

of the signal in the primary information storage unit, wherein the processing includes,

forming a transform of an N point signal where N is an integer by a first method if the logarithm of N to the base four is an integer and N is less than or equal to a particular value,

forming the transform of the N point signal by a second method if the logarithm of N to the base four is an integer and N is greater than the particular value,

forming the transform of the N point signal by a third method if the logarithm of N to the base four is not an integer, but the logarithm of N to the base two is an integer.

For reasons analogous to those stated above with respect to independent claim 1, Bhatia et al. fails to disclose or suggest the subject matter included in independent claim 19. Applicants' representatives fail to find in McPherson et al. a disclosure or suggestion of the subject matter included in independent claim 19 and missing from Bhatia et al. Therefore, the proposed combination of Bhatia et al. and McPherson et al. fails to disclose or suggest all of the subject matter included in independent claim 19, and so independent claim 19 is not obvious in view of the proposed combination of Bhatia et al. and McPherson et al.

Claims 20 and 23-24 depend from independent claim 19, and so include all of the subject matter included in independent claim 19, and more. For at least the reasons stated above with respect to independent claim 19, the proposed combination of Bhatia et al. and McPherson et al. fails to disclose or suggest all of the subject matter included in claims 20 and 23-24, and so claims 20 and 23-24 are not obvious in view of the proposed combination of Bhatia et al. and McPherson et al.

Applicants respectfully request reconsideration and withdrawal of the rejection, and allowance of claims 19-20 and 23-24.

Claims 21-22.

Claims 21-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhatia et al., McPherson et al., and Sloane et al. Applicants respectfully traverse the rejection of claims 21-22.

Claims 21-22 depend from independent claim 19, and so include all of the subject matter included in independent claim 19, and more. For at least the reasons stated above with respect to

independent claim 19, any proposed combination including Bhatia et al. and McPherson et al. fails to disclose or suggest all of the subject matter included in claims 21-22.

Applicants' representatives fail to find in Sloane et al. a disclosure or suggestion of the subject matter included in independent claim 19 and missing from any proposed combination of Bhatia et al. and McPherson et al. Therefore, the proposed combination of Bhatia et al., McPherson et al., and Sloane et al.<sup>5</sup> fails to disclose or suggest all of the subject matter included in claims 21-22, and so claims 21-22 are not obvious in view of the proposed combination of Bhatia et al., McPherson et al., and Sloane et al.

Applicants respectfully request reconsideration and withdrawal of the rejection, and allowance of claims 21-22.

#### Reservation of Rights

In the interest of clarity and brevity, Applicants may not have addressed every assertion made in the Office Action. Applicants' silence regarding any such assertion does not constitute any admission or acquiescence. Applicants reserve all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicants do not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicants timely object to such reliance on Official Notice, and reserve all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicants reserve all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

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<sup>5</sup> Applicants do not admit or agree that any combinations of Bhatia et al., McPherson et al., and Sloane et al. are possible.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 612-371-2132 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12th day of December 2007.

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